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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,642	08/06/2003	James Chyvan Moore	153-1	1641

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STEPHEN CHRISTOPHER SWIFT
SWIFT LAW OFFICE
SUITE 200
1940 DUKE STREET
ALEXANDRIA, VA 22314-3451

EXAMINER

ONEILL, MICHAEL W

ART UNIT PAPER NUMBER

3713

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,642

Applicant(s)

MOORE ET AL.

Examiner

Michael O'Neill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 7-10, 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

The drawings were received on 10-08-04. These drawings are acceptable.

The objection to the drawings is withdrawn because of the replacement sheets filed on 10-08-04.

The rejection under 35 U.S.C. 112 is withdrawn because of the Applicants' amendment to the claims.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feola in view of Scarne's.

Feola discloses a method for playing a card game either on a table or via an electronic gaming machine. The card game requires the player to first place a wager. Normally, this wager is placed on the highest ranking hand; however, Feola discloses that optionally the game can be place with placing the wager on the lowest ranking hand, see e.g. abstract. Feola teaches using this game with stud poker. Feola is silent as to whether the cards are dealt face up or face down. Scarne's teaches that it is known in the art to play blind stud poker. Blind stud poker is where the cards are dealt face down and then once all betting is complete the cards are turned face up for resolving all wagers. Scarne's teaches that blind games result

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in faster action, because there are less rounds of betting which slow the game down. Hence, blind games are favored by casino operators because faster action equates to larger handles per shift. Therefore, it would have been obvious to incorporate the teachings in Scarne's to the card game disclosed in Feola because blind stud poker is just a variation of stud poker and has a faster action which casino like and stud poker is the game disclosed to be used with Feola card game system. Because the card game can be played with the player selecting the lowest rank hand to wager on this meets the limitation of the payoff for lowest rank hand receiving a higher payoff; otherwise the player receives no payoff if the player did not pick which hand was going to be the lowest ranking hand.

Claims 7-10 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 10-08-04 and 7-14-04 have been fully considered but they are not persuasive. Applicants need to claim their actual card game because the art is full of card games that read on the broad recitations recited herein with respect to the rejected claims. The Examiner is providing additional prior art references that could equally apply to the

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claimed inventions that have been rejected. However, the Examiner believes in not overbearing the Applicants with cumulative rejections on the same claims, because that does not clearly advance prosecution.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 703-308-3484. The examiner can normally be reached on Monday through Friday 8:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on 703-308-2064. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL O'NEILL
PRIMARY EXAMINER